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Oral Comments from Grand Chute Listening Session

December 4, 2003

The information contained in this summary is a transcript of public comments provided at the Grand Chute listening session. Portions of the taped comments may not have been transcribed if inaudible. Names are spelled phonetically and may be misspelled.

Comments were received during two sessions. Session I was from 4:30 p.m. to 5:30 p.m. Session II was from 8:00 p.m. to 9:00 p.m. Time allotted to each speaker was based on the number of speakers that registered.

Session I

Jennifer Sunstrom: First again. My name is Jennifer Sunstrom, and I'm the governmental affairs director for the Realtors Association of Northeast Wisconsin. I have filled out this short DNR form, but would like the opportunity to hold it and submit the longer form now that I have it available, but will keep my comments brief to a few specific items.

First, I'd like to stress that our association and our members care a great deal about protecting our environment and water quality. Throughout Wisconsin and in our communities clean, safe drinking water is imperative to the quality of life in our area. While we support the effort to reduce the impact of development in housing along our water bodies, we believe that it should be done in a manner that it both balance and respects property right owners. It should also be implemented in a way that is flexible and allows for common sense approaches to regulation.

One of the most important requests that we have to make is that changes to state standards that create nonconforming structures or lots be grandfathered in. And what I mean by grandfathered in is not creating legal nonconforming lots which significantly depreciates the value of those properties, but rather be considered to be conforming if they were conforming when the law was put in place. Anyone who invests a great deal of money and time and effort into their properties and consider them to be conforming should not have the value of their property and their options significantly limited by a rule that follows.

I would also like to point out that when considering how to amend current regulations, it's necessary to remember that these are supposed to be state minimum standards or the base in which local communities write their own ordinances. Counties may be stricter, and often are. Therefore, these rules should provide a more flexible tool kit in which local decisions are made.

In regard to the specific proposals, the Association generally finds option B to take a more balanced and flexible approach, with the exception of certain circumstances where we would prefer status quo.

In particular with buffers, we prefer the 35-foot primary buffer with a 40-foot secondary buffer. The proposal has great potential to make improvements in allowing homeowners flexibility to make repairs

and one-time expansions, while in compensation restoring the primary buffer, which is one of the best ways for homeowners to protect water quality. If we implement a 50-foot buffer only leaving 25 feet in a secondary, we once again significantly reduce homeowners' options, and in return lose a lot of instances where we may be able to draw homeowners into restoring that primary buffer.

For boathouses, we prefer current law in this proposal. The goal of shoreline zoning is supposed to protect water quality. We are not sure how banning boathouses within a setback area really does that much to protect water quality, especially in comparison to many other instances throughout a community, such as throwing away mercury thermometers, dumping cleaners and paint down drains, putting pesticides and fertilizers on lawns, and washing cars in driveways can oftentimes do much more damage than a boathouse in a setback area.

How much water quality improvement, what would we really get from creating a large number of nonconforming structures and leaving shoreline property owners with little option of where they can place many of the boats and things that they use primarily on shoreline property. We believe that this proposal is more of an instance of subjective views of aesthetics, which is beyond the point of the rules and should be left up to local communities.

For minimum size for expansion, we prefer Option B. We're opposed to the prospect of the state telling a homeowner that their home isn't big enough to be available for expansions. Many small cottages have people who save their entire lives to be able to purchase, and this would significantly depreciate the value of their property and their ability to sell it down the road.

Total size of structure, current law, neither A or B --

Moderator: That's time.

Jennifer Sunstrom: -- there should be more flexibility for homes to expand to meet zoning requirements, especially if expansion is occurring outside the setback area. There are more comments that I think need to be said to have justice, but there are people here who can speak more eloquently I think about what's needed in their communities.

Moderator: Okay. Thank you for your comments. Len is next and then following Len will be Eric Anderson.

Len Pubans: Thank you. My name is Len Pubans, I'm from Shawano, and we spent the last two years or two and a half years trying to develop a proposed shoreland ordinance that I participated in, and I've gained a great understanding about the last 100 feet from the edge of the water landward. This is probably the most precious land in the world. It -- it's value is unable to calculate. It is most productive and it should be protected accordingly. It's good economic policy to have good environmental policy. And I endorse the stringent proposals here that you see for the protection of water quality and for the protection of future generations. I think this is important. We realize that the development on our lakes and rivers is increasing and the accumulative effect of all these developments, and all of us living on the shoreland need to accept the responsibility to protect this for future generations. Thank you.

Moderator: Okay. Thank you for your comments. Eric Anderson is next and following Eric will be Robert Stillings (ph.).

Eric Anderson: My name is Eric Anderson. I will be serving on a board of directors of a lake association in Forest County this coming year. I've owned and lived in year-round or seasonally on three lake homes around the state, and I'm currently dividing a waterfront plat into lots for sale. I agree

completely with the gentleman from Shawano. I support strong standards as -- on two bases. One, environmental. But also to protect property owners in that as residents of -- for example, if we are non-voters, we have no rights in voting for second homes, et cetera, yet many of us are paying a large share of county taxes. And I'm sure you know this. Many of the northern counties get much of their tax revenue from lakefront property owners who really have no voting rights. So I -- I encourage the strong standards, if nothing, to help raise the bar for the counties because the individual towns will have a lesser of a battle in holding up standards.

I, for example, in Forest County have a -- or live in a town -- or have a town that has fairly high standards. One zoning administrator can change that. So again, I support the bar.

The second thing I would support is a look at pre-existing homes, those homes which had been in place. I grew up in Waukesha County. I saw the degradation of lakes there. I also lived in a northern lake town. I saw the degradation there. And it would seem to me that there should be some type of incentive for existing homeowners to do the right thing in terms of sewer -- septic retrofits, shoreline stabilization or improvements, changes in driveway covers, et cetera, in the form of tax credits or something because so much of the state waterfront property's been developed. It would make a tremendous gain for all of us if there would be some focus on helping existing property owners. Thank you.

Moderator: Okay. Thank you for your comments. Next is Robert Stillings who will be followed by Kay Miller.

Robert Stillings: My name is Robert Stillings. I own a recreational property in the -- it's around Hemlock Lake in the town of Lincoln in Forest County. In terms of background, I have a technical background. I have a Ph.D. in Chemistry, and that was 1941. So there's quite a bit of rust accumulated between 1941 and now, but I still think I have enough retention to be able to understand the chemistry and ecology of lakes.

I'm a member and the former director of the Forest County Association of Lakes. People of Wisconsin own the inland waters and the state is the trustee, as I understand it. Along with this trusteeship goes the responsibility for taking care of these waters. I don't think you can delegate this to the local units of government. The state has to set the minimum standards that are required in this long-term preservation. Now the local units of government have the flexibility to make more stringent standards, and I think they are subject to local pressures, which make -- require that the state has to set the minimum standards. I believe that revising 115 should maintain or increase the 75-foot setback, keep the 100-foot minimum water frontage rule. And I'm happy to see that most of these things are in there. Really, cut to a bare minimum, the destruction of the natural vegetation by clearing and cutting, and particularly in the 75-foot setback rule, I would go further than -- than the proposal goes in terms of minimizing cutting in my own particular lot. I didn't do any cutting except for a walkway to the lake and maybe cut a few branches so I have some windows to look through, but no clear cutting. I'm totally against that.

I think we need some regulation, strict standards for sanitary sewage handling. And I think lots of cases of failing septic systems, and this may be a separate -- separate deal, but I think it's very important to keep the nutrients out of the lakes.

No rules are any good without enforcement, and I'm concerned that the -- that we're delegating -- the state is delegating the administration and the enforcement to the local units of government. And with that delegation I think comes the responsibility to follow through out of what they're doing and make sure that they're carrying out the intent of this thing. I think it's very easy to envision -- and it has happened -- where the property owner wants to do something that the law doesn't allow, he goes to the -- the zoning board and requests a variance. And if you got a board that starts to rubber stamp those things, the rules

mean nothing. So I think there has to be some kind of audit and oversight to see that the counties are in fact carrying out the intent of this.

In this particular thing, I think I favor proposal A in all cases as it's written now. Thank you.

Moderator: Again, thank you for your comments. Kay Miller is next followed by KC Maurer.

Kay Miller: Hi, I'm a zoning administrator with Door County, and I just have some concerns that should be laid out on the table, and also from listening to the -- the viewing audience, it seems that there is some areas where people don't really understand what terms mean, nonconforming structures, et cetera, and I would encourage you to go to your local departments. As zoning administrators, we're there to provide you with information. So if there's definitions that you don't understand or you don't know how the rules are currently applied, please make an appointment with your local department. That's why we're there, we're there to provide you with the information.

As Kevin was stating before, the major reconstruction, the definitions for major reconstruction, there's a problem. If the goal is to not reconstruct in a nonconforming location, you can definitely get reconstruction with either proposal A or B, one because there's not a lifetime of replacement time on it, and as a Z.A. it would be really hard to determine 25 percent or more, or essentially proposal B, the removal or replacement of all. There's just -- that really needs to be clarified.

I also think for the averaging (inaudible) setback, the language that is used, it really needs to be clarified because it's not clear. We have four Z.A.s and four of us read that section and we came up with three different interpretations. So I would like to see some clarification of that averaging procedure.

We were also talking about nonconforming lots and whether or not they could be sold separately. There's a difference between a substandard or a nonconforming lot versus one that's conforming, and essentially grandfathered, being 50 foot and 7500 square feet. So I think there's some information there that was presented accurately.

Also, when you're talking about creating a plat and having a minimum buildable area, I would like to know whether that 5000 square feet of land is exclusive then of the setbacks required. Also be prepared to make sure that you're requiring wetland delineations for each of those lots, and also providing elevations to determine whether it's not in a floodway. I don't know whether some communities realize that those things would have to be done in order to determine.

The only last comment that I really have is that you need the people in your community to buy into the importance of your primary and secondary buffers. And depending on what location you are in the state, that's going to be different. In Door County, we don't have people who are going to buy into the primary buffer. They have a lot of money and they want to cut the trees, and if they cut the trees they really aren't willing to replant them. So I mean this primary buffer, you're going -- in some areas you're going to have a hard sell, and some areas you're not, because people who live there are in the community and they're going to buy into it.

The other really important thing is that you need your zoning administrators to do on-sites. We have four Z.A.s, we do an on-site for every single application we get and violation we get. But there are communities out there who have zoning administrators that never do on-sites. So if you're talking about a rule change and really -- (tape cuts) -- and you know, have to do BMPs, you need your zoning administrators to get out there and actually do the work and do the on-sites. So I think that's important also that you get behind that community and make sure that that work is being done and inspected.

Moderator: Okay. Thank you for your comments. KC Maurer is next, followed by Sue VandenLangenberg. I hope I got that right.

KC Maurer: Again, my name is KC Maurer. I'd like to echo my concern that I shared during the Q&A portion that the study has not been completed to a point of yet making the determination whether or not option A or B or a combination thereof, to what percentage that effects the private property rights of the residents in the state of Wisconsin on the water. From a personal standpoint, I am a realtor. I get involved heavily with new subdivision and subdivision developments. And because of that, I'm very cognizant of the fact that people are very concerned about controlling other people from coming out to visit.

I'll give you the example. We'll put together a subdivision, it'll be out in the country, it'll be next to a group of other homes that live in the country. But for some reason, the people that live out in the country don't think it's okay for other people to go out and live in the country. This rule that I've read reminds me of similar characteristics where there are people that are living on the lake -- and I also am very concerned about the ecology. I'm a father of five, a grandparent of four with a fifth one on the way. I want my children and my grandchildren and their children to grow up in an environmentally friendly manner.

I also though, as a realtor, took a pledge to do everything that I know to protect the individual property rights. And somewhere between protecting the environment and the individual property rights we will find a meeting of the minds.

Individual property rights that I'm talking about traditionally would be value, so if we -- and there's no confusion in my mind rather or not it's legal nonconforming, nonconforming or substandard size. I have complete clarity on that. I don't know if I voiced my concern correctly, but I have complete clarity on that. If indeed these rules impact individual property rights that have an adverse effect on the property values, that is important, and that's negative.

I'm also reminded that when I do a subdivision most communities call me as a developer to do a neighborhood meeting. The neighborhood meeting brings in or adjoins the property owners within a six, eight, ten block radius. I wonder if everyone that lives on the lake or that has lake property has gotten a personal letter from the DNR including a complete comprehensive A, B or current law selection so that those property owners can give proper input or if they're relying on the newspaper.

As regarding my standards or my beliefs, I'm going to pickup underneath the construction on nonconforming lots, our first preference is to stay with the current law. Under minimum size for eligibility for expansion, proposal B that's submitted by the DNR plan actually works very well, and I can strongly endorse that. Total size of structure, the current law does not place limits on the size of the structure. I believe that is the prudent approach and would like to go on record. Under structures in more than one buffer zone, the current law does not address structures in more than one zone. I believe that is correct. Definitions of major reconstruction, I believe proposal B, all of the structural components above the foundation can be removed or replaced, I believe that is also prudent. Under minimum lot size, minimum size for new lots specifically, current law --

Moderator: That's time.

KC Maurer: -- I believe is correct. Thank you.

Moderator: Thank you for your comments. Next is Sue VandenLangenberg and then Sue will be followed by James Lauben.

Sue Vandenlangenberg: Sue VandenLangenberg, I'm a zoning administrator in Door County. I have one concern. That is right now we are having to make some choices now with the BMP manual requirements, yet the BMP manual has not been finalized or completed. I would rather make decisions based on the knowledge of what those BMP manuals say. The reality of having the flexibility with the BMP brings about the reality of the time designing, implementing and determining if those BMP practices have been established and maintained. So realistically, when it comes to my workload, I'm busy right now. I -- I really am finding it hard to know how I'm going to make sure that these BMP practices are established and maintained through the years. Thank you.

Moderator: Okay. Thank you for your comments. James Lauben followed by Pat Kaster.

James Lauben: Hi, my name is Jim Lauben. I'm a member of Charter Unlimited, but I'm not really here today representing that organization, although I think a great many of our members would agree with me. Water quality in the waters of Wisconsin are the responsibility of everybody, and I think, you know, we need to do everything that we can to protect that water. I see the more restrictive aspects of this ordinance being the ones that are going to protect water quality the best, and I would urge you all to support those. I think we owe that to our children. We've benefited from some of the activities of our grandparents, although we've suffered from some too.

I guess one other thing we talked -- most of the talk today was around lakes and things, and I think there's the other concern, and that's the rivers and trout streams of Wisconsin, and we need to think about how these rules might apply to them as well.

I guess what I'd like to -- in addition to water quality, I think there's the visual aspects of all of this. I think people go to their lake property, they go up north, as we say here in Wisconsin, to see the wildlife, the trees and to fish. And I think that's -- that's important, water quality is a part of that. A lot of these buffer zones protect that.

I own property on a very small lake in Waupaca County, it's a beautiful spot, not very well developed. There's eight cottages. There are only ten property owners on the whole lake. Shortly after we bought our lot, and we bought our lot from a farmer, it was what used to be pasture, and there weren't hardly any trees, only just a few. Shortly after that, a farmer who owned the property across the lake from us passed away and there was a rumor that this beautiful wooded area might be going up for sale by his children. So my wife and I went over there and we embarked on the shore. We'd been on the lake many times fishing, but when you're there looking for a lot you look at it a little differently. And when we got on that lot and turned around and saw our property across the lake, which was cornfield and a couple of cottages with lawns all the way down to the lake, we instantly made the decision that we were not interested in that property. The visual -- I'd much rather be looking at the woods than be living in the woods looking at the cornfields and lawns and stuff. So I think that's something that we all ought to consider and hopefully we'll all enjoy the outdoors for years to come.

But I think the more restrictive portion of this proposal is the one that'll protect those values the best. Thank you.

Moderator: Okay. Thank you for your comments. We'll have Pat Kaster followed by Steven Spanbauer.

Pat Kaster: My name is Pat Kaster. I own a real estate company in Green Bay, and I'm president of the Realtors Association of Northeast Wisconsin, and I'm co-chair of the government affairs committee for the Brown County Homebuilders Association. I will speak in those capacities, then I'll also speak as -- in a personal capacity first.

In Brown County we do development, we do conservation by design. We have fought tooth and nail to get it to be accepted by the market as well as the municipalities. The 40 percent amount that's listed in the ordinance is extreme when it is asking for that to be in addition to the environmental areas that need to be protected. As someone who has done this voluntarily, the -- to expect that much property to be set aside, in some cases you may only be asking for development of about 20 percent of the property or 30. And in some aspects, that's fine. But if you're the person that's selling that property, your property values have been depleted by less than half. And major property owners that have property that they're going to want to sell someday need to know the effect that this is going to have on -- on their property.

I would also ask that you look at the ordinance as a whole in the nonconforming and the grandfather clauses that Casey was referring to. And it's been my experience that if your property is in a nonconforming use and it changes hands, that use is terminated, and therefore the property value is gone. And if it's different in shoreland zoning than it is in other zoning, that clarification should be made, because otherwise these things should be grandfathered so they are permanently protected so that the property value is not depleted for the property owner.

The -- the changes as I see them are making it almost impossible for the average individual to enjoy the things that I enjoyed growing up. We had a cottage. We went there all summer long. We went swimming. We went fishing. Our -- our cottage was not an extreme, it was a small two-bedroom cottage, and some of my greatest memories are from that cottage and the lake that we used to play in. And I think that you need to look at this because you are making this something for rich people, and you are forgetting the common man. Thank you.

Moderator: Thank you for your comments. We'll go to Steven Spanbauer followed by Dick Jahnke.

Steven Spanbauer: My name is Steve Spanbauer. I chair the town of Neenah in Winnebago County. The town of Neenah is located along the western shore of Lake Winnebago. A significant amount of our waterfront was developed well before the second World War, and the way it is is the way it is pretty much.

You do have choices when you're developing, when you're making a new development. Mr. Maurer spoke of developing subdivisions along water and other nice areas, and that's fine. You can go in and you can make up rules for something like that and the developer knows what he's doing and can follow those rules, and you could make it just as ideal as all the fine minds that worked so hard on -- on this document put together, and the people buying the property know what they're getting into. But that's the key, Mr. Lauben talked about when he bought his property or when he looked at buying some other property, and he's right, people have a choice when they buy property. If you'd like to live in a woods or adjacent to a woods, you can buy property that's in a woods or adjacent to a woods. If you'd like to build -- build on a marsh, you can build on a marsh, and you know that you're doing that. If you want to build on a lake or buy a property on a lake, you can do that too.

However, what we're faced with here with this natural vegetated area, the -- I wrote it down so I got it right -- the preservation of restoration of the natural vegetative area in the primary buffer, to mandate that in an area that was developed before the second World War is just plain wrong. I don't know that there's any demand. As town chairman, I speak to many, many people. I'm also an active boater, and I speak to many, many boaters. Now if the people who live on the water don't want to have 35 feet of rustic forest between their house and the lake, and if the people who are out on the lake don't want to have 35 feet of rustic forest between the lake and the -- the properties, the houses that are along there, why on earth should we have a rule that demands something like this?

It's my understanding that the only way that this ever became law is there was a rider attached to a budget bill so the folks in Madison had to either accept the budget with this attached to it or throw the whole budget away, which they didn't want to do. It's just wrong to demand this natural vegetative area in existing areas so people don't have a choice but have to try to retrofit or to get a building permit to have to retrofit.

And it's not just fair to the people that live there -- or unfair, excuse me, but it's unfair to their neighbors. We have many areas, nice, nice names. We have the Leimken (ph.) Bay and Sunrise Bay and Hunter's Point and Rainbow Beach and Della Beach, and you just go on down the line with these pretty names and these pretty areas that already exist. In many cases the lots are only 50 or 55 feet wide, but they've been there and there are nice houses that are well taken care of on them. If the neighbor wants to remodel, and because many of them are less than 75 feet to the water, if the neighbor wants to remodel, the neighbor must suddenly build this woods out there between his house and the lake. And what does that do to the guy that's next door? He has to look at that too instead of looking at the lake, and he made his choice. He wanted to be on the lake, not on the woods, not on the marsh.

Anyway, I certainly commend the folks who worked on this, there's an awful lot of work done on many, many areas here that are made more flexible and more reasonable, and I'm very pleased to see that. But the entire concept of this natural vegetative area stuck in there between the houses and the lake is just a wrong thing to saddle people with. Thank you.

Moderator: Thank you for your comments. Our next speaker will be Dick Jahnke, followed by Terry Hilgenberg.

Dick Jahnke: Hi. This will be short so any time I have left over could go to the next one. My name is Dick Jahnke. I have owned lake property since 1968, and had a home on the lake in Forest County since 1976. Unfortunately, during the last four years, Forest County has publicly stated that the purpose of their zoning was not shoreland protection, but the purpose is to maximize tax base. As a result, the county zoning ordinance last updated in 1998 has been almost completely eliminated, and the perception is anything is allowed in Forest County, and if it's not allowed, we'll find a way to allow it as long as it increases the tax base.

This leads me and many others to question how much enforcement of NR115 there is in Forest County and perhaps in other counties. So this leads to one other thing, and that's an omission I have noticed in -- in the NR115 revisions. And that is enforcement. I would hope it's not too late that the advisory committee could look at that question and put some more enforcement authority of NR115 into the hands of the DNR.

Moderator: Thank you for your comments. Our next speaker, and final speaker, is Terry Hilgenberg.

Terry Hilgenberg: Thank you and good afternoon. I'm Terry Hilgenberg from Shawano. I've been a lifelong resident of the Shawano area. I've lived on the Wolf River or Shawano Lake almost all my life, and also have some interest in property on the Oconto River and the Embarrass River. So water quality is very, very important.

I think the whole issue boils down to reasonableness with regulation. And anyone that plans on being around for awhile should be supporting reasonableness with regulation. Overkill, however, isn't fair to property owners, and is not fair to people that want to, as Pat said, enjoy the possibilities of owning a property on the water.

In the last six years I've been involved in two developments, one which was owned by our family and one which was owned by a client. And interestingly, in both of those developments, we far exceeded what the standards were that were required. Why? The market demanded it. Instead of 100 foot lots, we did at least 125, 150 foot lots, at least one and a half acres. The market demanded it.

I think we need to consider that in part of the equation when we start regulating everybody. I would support many of the things that are in the proposal as it relates to preference B. I would also second the gentleman from -- with the chemical degree on clear-cutting. I -- I think that's absolutely terrible. However, in some instances, it's overkill. I sat on the Shawano County taskforce in looking at the shoreland zoning rules and regulations and, you know, aesthetics sometimes are in the eyes of a beholder. I can remember not too long ago when the DNR decided they wanted everybody had to have a brown or green cover on their boathouse, the boatlift. Well, now who said brown or green is better? You know, there's certain things that don't need to be regulated or dictated to by the government. And there are certain issues in these proposals that are like that. But I think we all need to come to the table to support what's in the long-term beneficial for the majority of the people, and reasonableness with regulation is what should be supported. We should be advocates of it. People that live on the water should respect the people that don't live on the water and want to be on the water.

The issues of not allowing boathouses, I'm not a strong supporter of boathouses. I have a boatlift and I have a neighbor that has a dilapidated boathouse, I hope he tears it down sometime, but I'm not going to tell the boatlift and boathouse police that they got to come over and give him a ticket for not taking his boathouse down in two years or something like that. I mean there is a certain reasonableness that we need to look at when we look at rules and regulations.

So I applaud the people that are on the advisory committee. One of our own, Mike, is on the statewide advisory committee. He's worked diligently in trying to get some reasonableness within the rules. I know the nonconforming structure has been a problem issue for years. Wherever you go it's a problem issue. And I think that portion of this proposal is one that we need to support and look at so that the county officials can take a look at trying to adequately regulate those things that we can reasonably do. Thank you very much.

Moderator: Okay. Well, I'd like to thank everyone for their comments and remind you again that you have the opportunity to submit written comments until December 31st. Please do include your name with those written comments and, if you choose, other contact information. Thanks again to Toni and to our advisory committee members for helping out. I encourage you to ask individual questions of the DNR people. Again, we have another session coming up, so they'll be here and available to answer questions. Thank you.

Session II

No comments.